

Executive Summary – Enforcement Matter – Case No. 44992
North Orange Water & Sewer, LLC
RN102078896
Docket No. 2012-1868-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Longford Place, located on the east side of State Highway 87 approximately three miles north of the intersection of IH-10 and State Highway 87, Orange County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 8, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,188

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$688

Total Due to General Revenue: \$8,500

Payment Plan: 17 payments of \$500 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 44992
North Orange Water & Sewer, LLC
RN102078896
Docket No. 2012-1868-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: July 20, 2012
Date(s) of NOE(s): September 13, 2012

Violation Information

1. Failed to obtain authorization for a major permit amendment prior to making modifications to the permitted Facility [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011155001, Permit Conditions No. 4.a., 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].
2. Failed to prevent the unauthorized discharge of sludge into the receiving stream [TPDES Permit No. WQ0011155001, Permit Conditions No. 2.d., 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. By July 23, 2012, returned the effluent discharge route to its original route as permitted; and
- b. By July 24, 2012, remediated the affected area, to include the removal of dead blood worms, insects and fish, and the proper disposal of the sludge/wastewater collected.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 44992
North Orange Water & Sewer, LLC
RN102078896
Docket No. 2012-1868-MWD-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Alan Barraza, Enforcement Division,
Enforcement Team 3, MC 169, (512) 239-4642; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Bobby Manshack, President, North Orange Water & Sewer, LLC, 10406
Highway 87 North, Orange, Texas 77632

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	17-Sep-2012	Screening	17-Sep-2012	EPA Due	
	PCW	12-Jun-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	North Orange Water & Sewer, LLC		
Reg. Ent. Ref. No.	RN102078896		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	44992	No. of Violations	2
Docket No.	2012-1868-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$8,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	30.0%	Enhancement	Subtotals 2, 3, & 7	\$2,625
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Notes

Enhancement for one agreed order containing a denial of liability and two months of self-reported effluent violations.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$2,187
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$1
Approx. Cost of Compliance \$3,361

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,188
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$9,188
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,188
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$9,188
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Screening Date 17-Sep-2012

Docket No. 2012-1868-MWD-E

PCW

Respondent North Orange Water & Sewer, LLC

Policy Revision 3 (September 2011)

Case ID No. 44992

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102078896

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one agreed order containing a denial of liability and two months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date 17-Sep-2012

Docket No. 2012-1868-MWD-E

PCW

Respondent North Orange Water & Sewer, LLC

Policy Revision 3 (September 2011)

Case ID No. 44992

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102078896

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s)

Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011155001, Permit Conditions No. 4.a., 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description

Failed to obtain authorization for a major permit amendment prior to making modifications to the permitted Facility, as documented during the investigation. Specifically, the discharge route enters into Cypress Bayou, approximately one mile downstream of the permitted discharge route.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

3 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,250

One monthly event is recommended from the July 20, 2012 investigation date to the compliance date of July 23, 2012.

Good Faith Efforts to Comply

25.0% Reduction

\$312

Extraordinary

Before NOV NOV to EDPRP/Settlement Offer

Ordinary

N/A

(mark with x)

Notes

The Respondent achieved compliance by July 23, 2012 for this violation.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,313

This violation Final Assessed Penalty (adjusted for limits) \$1,313

Economic Benefit Worksheet

Respondent North Orange Water & Sewer, LLC
Case ID No. 44992
Reg. Ent. Reference No. RN102078896
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,500	20-Jul-2012	23-Jul-2012	0.01	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to return the effluent discharge route to its original route as permitted. Date required is the investigation date and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$1

Screening Date 17-Sep-2012

Docket No. 2012-1868-MWD-E

PCW

Respondent North Orange Water & Sewer, LLC

Policy Revision 3 (September 2011)

Case ID No. 44992

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102078896

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s)

TPDES Permit No. WQ0011155001, Permit Conditions No. 2.d., 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description

Failed to prevent the unauthorized discharge of sludge into the receiving stream. Samples taken approximately 800 feet downstream of the outfall indicated elevated levels of ammonia, orthophosphate, phosphorus, total kjeldahl nitrogen and total organic carbon. Sludge, dead blood worms, insects and approximately 200 dead fish were noted in the immediate area where the sludge entered a roadside ditch of the Facility at the intersection of Lawn Oak Drive and Rosebud Drive; then east on Rosebud Drive for approximately 700 feet into an unnamed tributary of Cypress Creek; then south approximately 6,000 feet into Cypress Bayou.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual	x		
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to prevent an unauthorized discharge of wastewater into water in the state resulted in the release of pollutants which exceeded levels that are protective of human health and the environment.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

4 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One monthly event is recommended from the investigation date of July 20, 2012 to the compliance date of July 24, 2012.

Good Faith Efforts to Comply

25.0% Reduction

\$1,875

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance by July 24, 2012 for this violation.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$7,875

This violation Final Assessed Penalty (adjusted for limits) \$7,875

Economic Benefit Worksheet

Respondent North Orange Water & Sewer, LLC
Case ID No. 44992
Reg. Ent. Reference No. RN102078896
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$861	20-Jul-2012	24-Jul-2012	0.01	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remediate the affected area, to include the removal of dead blood worms, insects and fish, and to properly dispose of the sludge/wastewater collected. Date required is the investigation date and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$861

TOTAL

\$0



Compliance History Report

PENDING Compliance History Report for CN600678098, RN102078896, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600678098, North Orange Water & Sewer, LLC **Classification:** SATISFACTORY **Rating:** 6.76

Regulated Entity: RN102078896, LONGFORD PLACE **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 5 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: Located on the east side of State Highway 87 approximately three miles north of the intersection of Interstate Highway 10 and State Highway 87 in Orange County, Texas

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):

UTILITIES REGISTRATION 20548

WASTEWATER EPA ID TX0053562

WASTEWATER PERMIT WQ0011155001

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1810015

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1810015

WASTEWATER LICENSING LICENSE WQ0011155001

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: September 20, 2012

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 20, 2007 to September 20, 2012

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jorge Ibarra, P.E.

Phone (817) 588-5890

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 07/08/2012 ADMINORDER 2011-2100-MWD-E (1660 Order)

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Effluent Reporting Requirements PERMIT

Monitoring & Reporting Req. No. 1 PERMIT

Description: Failure to submit effluent monitoring results at the intervals specified in the permit substantially interfering with the ability to determine compliance status as documented by a TCEQ record review.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 319, SubChapter A 319.5(b)

Rqmt Prov: Monitoring & Reporting Req. No. 1 PERMIT

Sampling & Analysis Requirements PERMIT

Description: Failure to collect and analyze samples for required parameters at the minimum frequency specified in the permit as documented by a TCEQ record review.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	September 24, 2007	(608194)
Item 2	October 22, 2007	(621756)
Item 3	November 26, 2007	(621757)
Item 4	December 27, 2007	(621758)
Item 5	January 22, 2008	(673733)
Item 6	February 22, 2008	(673732)
Item 7	March 24, 2008	(691963)
Item 8	April 22, 2008	(691964)
Item 9	May 23, 2008	(691965)
Item 10	June 23, 2008	(712989)
Item 11	July 24, 2008	(712990)
Item 12	September 05, 2008	(712991)
Item 13	September 29, 2008	(752354)
Item 14	October 27, 2008	(729182)
Item 15	November 24, 2008	(729183)
Item 16	January 26, 2009	(752355)
Item 17	March 06, 2009	(770002)
Item 18	March 30, 2009	(770003)
Item 19	April 27, 2009	(770004)
Item 20	June 22, 2009	(809668)
Item 21	July 24, 2009	(809669)
Item 22	October 06, 2009	(809671)
Item 23	October 07, 2009	(809670)
Item 24	October 26, 2009	(809672)
Item 25	November 20, 2009	(809673)
Item 26	January 21, 2010	(809675)
Item 27	January 22, 2010	(809674)
Item 28	May 24, 2010	(926849)
Item 29	June 14, 2010	(926851)
Item 30	August 23, 2010	(867522)
Item 31	October 05, 2010	(874523)
Item 32	November 08, 2010	(888570)
Item 33	December 06, 2010	(888571)
Item 34	March 04, 2011	(916930)
Item 35	July 06, 2011	(946016)
Item 36	October 26, 2011	(965957)
Item 37	November 21, 2011	(984936)
Item 38	January 24, 2012	(991223)
Item 39	February 22, 2012	(998589)
Item 40	March 22, 2012	(1004119)
Item 41	May 21, 2012	(1017060)
Item 42	June 22, 2012	(1024826)
Item 43	July 23, 2012	(1032181)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	11/30/2011	(984938)	CN600678098
	Self Report?	YES		Classification: Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		

Date: 03/31/2012 (1010683)

CN600678098

Self Report? YES

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
NORTH ORANGE WATER & SEWER,	§	TEXAS COMMISSION ON
LLC	§	
RN102078896	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2012-1868-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding North Orange Water & Sewer, LLC ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located on the east side of State Highway 87 approximately three miles north of the intersection of Interstate Highway 10 and State Highway 87 in Orange County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation conducted on July 20, 2012, TCEQ staff documented that the Respondent did not obtain authorization for a major permit amendment prior making modifications to the Facility. Specifically, it was documented during the investigation that the discharge route enters into Cypress Bayou, approximately one mile downstream of the permitted discharge route.
4. During an investigation conducted on July 20, 2012, TCEQ staff documented that the Respondent did not prevent the unauthorized discharge of sludge into the receiving stream. Samples taken approximately 800 feet downstream of the outfall indicated elevated levels of ammonia, orthophosphate, phosphorus, total kjeldahl nitrogen and total organic carbon. Sludge, dead blood worms, insects and approximately 200 dead fish were noted in the immediate area where the sludge entered a roadside ditch of the Facility at the intersection of Lawn Oak Drive and Rosebud Drive; then east on Rosebud Drive for approximately 700 feet into an unnamed tributary of Cypress Creek; then south approximately 6,000 feet into Cypress Bayou.
5. The Respondent received notice of the violations on September 18, 2012.
6. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By July 23, 2012, returned the effluent discharge route to its original route as permitted; and
 - b. By July 24, 2012, remediated the affected area, to include the removal of dead blood worms, insects and fish, and the proper disposal of the sludge/wastewater collected.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to obtain authorization for a major permit amendment prior to making modifications to the permitted Facility, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011155001, Permit Conditions No. 4.a., 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a).
3. As evidenced by Findings of Fact No. 4, the Respondent failed to prevent the unauthorized discharge of sludge into the receiving stream, in violation of TPDES Permit

No. WQ0011155001, Permit Conditions No. 2.d., 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a).

4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Nine Thousand One Hundred Eighty-Eight Dollars (\$9,188) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid Six Hundred Eighty-Eight Dollars (\$688) of the administrative penalty. The remaining amount of Eight Thousand Five Hundred Dollars (\$8,500) of the administrative penalty shall be payable in seventeen monthly payments of Five Hundred Dollars (\$500) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Nine Thousand One Hundred Eighty-Eight Dollars (\$9,188) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: North Orange Water & Sewer, LLC, Docket No. 2012-1868-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature

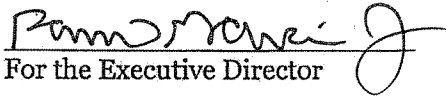
affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

11/25/14
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of North Orange Water & Sewer, LLC. I am authorized to agree to the attached Agreed Order on behalf of North Orange Water & Sewer, LLC, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, North Orange Water & Sewer, LLC waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

Bobby Manshach
Name (Printed or typed)
Authorized Representative of
North Orange Water & Sewer, LLC

6/30/14
Date
President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.